FILE COPY

IN THE

Supreme Court of the United States

OCTOBER TERM, 1959

NO. 235

MISSOURI PACIFIC RAILROAD COMPANY, *Petitioner*,

v.

J. A. MOORE and FARRIS ANTOINE, *Respondents*

PETITION FOR WRIT OF CERTIORARI
To the United States Court of Appeals
For the Fifth Circuit

HUTCHESON, TAHERRO & HUTCHESON
1720 Niels Esperson Building
Houston 2, Texas

ARTERBURY, HOOVER & GRAHAM
1548 Bank of the Southwest Building
Houston 2, Texas

HOWARD S. HOOVER
1548 Bank of the Southwest Building
Houston 2, Texas
Attorney for Petitioner

ALPHA LAW BRIEF CO., 402 M. & M. BLDG., HOUSTON 2

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Petitioner, Missouri Pacific Railroad Company, prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit, entered in the above entitled and numbered cause on March 20, 1959.

Citations To Opinion Below

The opinion of the Court of Appeals (R. 448), printed in Appendix "A" hereto, page 33, is not officially reported but is printed in 264 Federal Reporter, 2nd Series, at page 754. The Court of Appeals did not write an opinion denying Petitioner's Petition for Rehearing.

Jurisdiction

The judgment of the Court of Appeals was entered on March 20, 1959 (R. 455). A timely Petition for Rehearing, filed on April 10, 1959, was denied June 5, 1959. Jurisdiction of this Court is invoked under 28 U.S.C., Sec. 1254.

Questions Presented

Are the fact findings, made by a board duly constituted in accordance with a labor contract in effect between a common carrier and two of the unions representing its employees, at a hearing as provided in said contracts, which findings are supported by substantial competent testimony, subject to review by a jury de novo?

Is a common carrier liable in damages in a wrongful discharge suit where the discharges followed fact findings by a duly constituted board, which findings constituted good cause, under a labor contract which provided for discharge for just cause, where the fact findings are fully supported by the evidence presented at the hearing, which was fairly conducted, and at which the rights of the employees under the labor contract were fully protected and at which there was no evidence of bias or preconceived opinions on the part of the members of the board?

Statutes Involved

The Statutory Provision involved is 49 U.S.C. Sec. 1, Para. 7. Such is printed as Appendix "B" Page 41 of this Petition.

Statement

The factual situation out of which this controversy arose is a simple one. Prior to November 18, 1954, the then General Manager of Petitioner received certain information to the effect that cash fare tickets were being mishandled on the passenger run of Petitioner's train from Houston, Texas, to New Orleans, Louisiana and return. He therefore instructed Special Agent Rogers to make an investigation of this matter and ascertain the true facts (R. 202-203). Special Agent Rogers then went to the Harris County Sheriff's Office in Houston, Texas, and requested Captain Nichols of that department to secure or recommend to him two reliable colored investigators. (R. 204). Captain Nichols contacted two such men that had done work for the Harris County Sheriff's Office on prior occasions, and who had been found by that department to be reliable, (R. 196) and recommended these two men to Agent Rogers. Special Agent Rogers then employed these two men and instructed them to ride Train No. 10 from Houston to New Orleans on Nov. 26, 1954. His instructions to the men were to ride the train anyway they could; if they could ride without tickets, fine, but if they had to buy tickets, to buy the tickets (R. 205). He was at the station when such train departed and the two men were on it (R. 206). The two investigators returned from New Orleans to Houston on November 30, 1954 on Petitioner's passenger train. When they returned to Houston they went directly to the Harris County Sheriff's Office and made a joint statement in the form of a letter addressed to the then General Manager of Petitioner. A copy of such statement appears at page 355 of the record.